

REMARKS

The last Office Action of July 22, 2005 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-38 are pending in the application. Claims 14-38 have been withdrawn from further consideration. Applicant herewith affirms the withdrawal of claims 14-38 from further consideration. Claims 14-38 have now been canceled. Claims 2-3, and 8-13 have been amended. Claim 1 has been canceled. No amendment to the specification has been made. No fee is due.

Claims 1-2, 8-10, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,127,280 to Stutz in view of Notten et al., *Etching of III-V Semiconductors*, Elsevier Science Publishers (1991).

It is noted with appreciation that claims 3-7 and 12 are indicated allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Applicant has rewritten claim 3 in independent form, as suggested by the Examiner, who indicated that originally filed claim 3 would be allowable if rewritten in independent form. Accordingly, applicant asserts that claim 3 has not been narrowed to trigger prosecution history estoppel. See *Salazar v. Procter & Gamble Co.*, 75 USPQ2d, 1369 (stating that introducing claim 7 based on the allowable subject matter of dependent claim 3 of the "149 application was not a narrowing amendment for purposes of patentability and, therefore, does not by itself give rise to prosecution history estoppel). Claims 2 and 8-13 have been amended to change their dependency.

For the reasons set forth above, it is applicant's contention that claim 3 should now be in condition for allowance. As for the rejection of the retained dependent claims, these claims depend on claim 3, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Applicant further submits a certified copy of the priority document under 35 U.S.C. §119(a)-(d).

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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